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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,217	12/15/2003	Carl Young	3499-256	7693
28062	7590	11/07/2005	EXAMINER	
BUCKLEY, MASCHOFF, TALWALKAR LLC			WEBB, JAMISUE A	
5 ELM STREET			ART UNIT	PAPER NUMBER
NEW CANAAN, CT 06840			3629	

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/737,217	YOUNG ET AL.
	<b>Examiner</b> Jamisue A. Webb	<b>Art Unit</b> 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

- A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10, 15 and 16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10, 15 and 16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
  - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    - 1. Certified copies of the priority documents have been received.
    - 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. With respect to Claim 1: the phrase "therein the indication of a security risk comprises at least one of: a potential for physical, reputational, economic or legal harm to the resource" is indefinite. The claim states that the risk is associated with the first or second element, and this phrase indicates the indication of a security risk is only for the second element, therefore it is unclear what happens if the first element is chosen, how the security risk is determined for the first element. The examiner suggest deleting the words "to the resource" in this phrase.
4. With respect to Claim 3: the phrase "wherein the first or second element selected comprises a geographical area delineated to a national boundary and a political boundary" is indefinite. In Claim 1, the first element is a facility and the second element is a resource in a facility. It is unclear to the examiner how a facility or resource within a facility can comprise a geographical area such as a national boundary or political boundary.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beverina et al. (US 2001/0027388) in view of Zimmers et al. (US 2005/0013417).

7. With respect to Claims 1, 15, 16: Beverina discloses the use of a computer system with a computer implemented method for managing security risks (see abstract) which uses a computer executable code (paragraph 0011) to perform the following steps:

a. Setting a hierarchical relationship between two or more elements where the first element is a facility and the second element is a resource located within the facility (See Figures 8 and 15, paragraphs 0015, 0078, 0079 and 0110),

b. Receiving an indication of a security risk of one or more of the elements (See Figures 8 and 15, paragraph 0011),

c. Receiving selection of an element (See Figure 15); and

d. Transmitting a description of the security risk as it relates to the element selected based on hierarchical relationship and indication of security risk (See Figures 15 and 16, paragraph 0012).

8. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be

a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

9. With respect to Claim 2: See Beverina Figure 16 and paragraph 0106.
10. With respect to Claim 3: See Beverina Figures 15 and 47.
11. With respect to Claim 4: See Beverina Figures 15, 16, 23 and 24.
12. With respect to Claim 5: the description of the security risk comprising misappropriation of information is considered to be descriptive non-functional language. This information is not further used in the claims, and therefore is analogous to printed matter. It has been held (In re John Ngai and David Lin, CAFC, 5/13/04, 03-1524) that when printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the art in terms of patentability. The case also states that if we were to adopt Ngai's position, anyone could continue patenting a product indefinitely provided they add a new instruction sheet to the product. The description of the security risk comprising misappropriation is simply a form of printed matter in an electronic form. Beverina discloses transmitting a security risk, what description information about the security risk is transmitted is considered to non-functional descriptive language and therefore is not given patentable weight, therefore Beverina anticipated Claim 5.

13. With respect to Claim 6: See Beverina Figure 23, paragraphs 0013 and 0096.
14. With respect to Claim 7: See Beverina paragraphs 0174, 0175 and 0209-0222.
15. With respect to Claim 8: See Beverina Figures 21 and 40, paragraph 0085.
16. With respect to Claim 9: See Beverina Figures 15 and 19.
17. With respect to Claim 10: See Beverina Paragraph 0198.
18. With respect to Claim 11: Beverina discloses a computer implemented method for managing a security risk of a facility (see abstract) comprising the steps of:
  - e. Presenting a graphical user interface related to a facility (See Figures 8 and 41, paragraph 0070),
  - f. Displaying security issue related to a geographic area (See Figure 8),
  - g. Indicating one or more threats (See Figure 8 and 15),
  - h. Displaying a relative location of an ingress route of the hazards (paragraphs 0180, 0198, 0269, 0307, 0308, 0443, and 0444).
19. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals

can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

20. With respect to Claim 12: See Beverina Paragraphs 0008 and 0009.
21. With respect to Claim 13: See Beverina Figure 42, paragraphs 0016 and 0106.
22. With respect to Claim 14: Beverina discloses a method for managing security risks (See abstract) which comprises the steps of:
  - i. Inputting an indication of a facility (See Figures 19, 27 and 28, paragraph 0078),
  - j. Receiving an indication of one or more security risks (See Figure 15, paragraph 0080),
  - k. Inputting an indication of a subset of the facility, receiving information descriptive of the security risks of the subset and receiving an image of the subset of the facility (See Figures 6, 7, 19 and 27, paragraphs 0078-0080).
23. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

24. With respect to Claims 17 and 18: Beverina, as disclosed above for Claim 1, discloses the use of a computerized method that sets a hierarchical relationship between elements, indicates the risks of the selected element and transmits those risks to a user along with counter measures (See abstract and all figures). However, Beverina does not specifically recite the use of a digital signal embodied in a digital data stream comprising data relating to managing security risks. Beverina discloses in Figures 2, 6, 10, 12, 13, 23, and 24 and in paragraph 0014, the use of networks and plug-ins where data is transferred back and forth through different systems and databases and engines in order to access the security risk. The data that is being passed back and forth to process and computers of the system must be some sort of signal, therefore it is inherent that the data passed is in the form of a digital data signal, and if it is not inherent in the network/plug-ins themselves that the data passed is a digital data signal, then it would have been obvious to one having ordinary skill in the art that the data being passed through the network and computers is being passed using a digital signal due to the fact that it is old and well known in the art that when a network is set up digital cables are used to connect the computers together for the increased speed that digital cables provide.

#### *Response to Arguments*

25. With respect to the 112 1<sup>st</sup> Paragraph rejection being dropped: The examiner has dropped this rejection for the purpose that the examiner previously read the claim to state the the government agency or news feed had to provide real time information tailored specifically to the resource. After further consideration it has been determined that the claim reads broadly enough

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to have the government agency or news feed provide general information on a real time bases, and the system itself will determine the threat to the resource.

26. With respect to Applicant's argument to 112 2<sup>nd</sup> paragraph rejection of Claim 1: Claim 1 states that the first element is a facility and the second element is a resource. The phrase which the examiner considers to be indefinite states a harm to the "resource", the second element. Therefore if the first element is selected then there would be no indication of a security risk, since the indication is only directed to the resource. The examiner suggest deleting the phrase "to the resource" in this phrase.

27. With respect to Applicant's argument to 112 2<sup>nd</sup> paragraph rejection of Claim 3: Claim 3 is dependent of Claim 1. Claim 1 states that the first element is a facility and the second element is a resource associated with the facility. Claim 1 already claims the elements in a narrow sense (being a facility or a resource). Claim 3 is a broader limitation of one of the elements, which are a national or political boundary. How can a facility or a resource within the facility be a national or political boundary? The rejection stands as stated above.

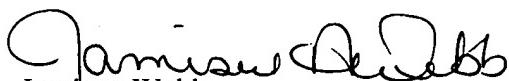
28. With respect to Applicant's argument that Beverina does not disclose setting a hierachal relationship: Beverina discloses the system being used, breaks it down by floors with in a building. The examiner considers this to be a hierachal relationship. Therefore rejection stands as stated above.

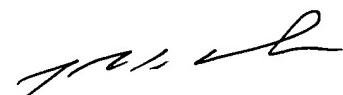
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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